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U.S. DISTRICT COURT E.D.N.Y.
★ JUN 18 2009 ★
BROOKLYN OFFICE

WMN:TMM
F.#2009R01111/OCDETF NY-NYE-486

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
- - - - - - - - - - - - - - - X

UNITED STATES OF AMERICA

- against -

VICTOR DACOSTA BOURNE and
MATTHEW JAMES,

Defendants.

- - - - - - - - - - - - - - - X

S U P E R S E D I N G
I N D I C T M E N T

Cr. No. 08 CR 888(S-1)(NGG)
(T. 21, U.S.C., §§ 841(b)(1)(A)(ii)(II), 846, 853, 952(a), 960(a)(1), 960(b)(1)(B)(ii) and 963; T. 18, U.S.C., §§ 2 and 3551 et seq.)

THE GRAND JURY CHARGES:

COUNT ONE
(Cocaine Importation Conspiracy)

1. On or about and between February 1, 2002 and February 28, 2009, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants VICTOR DACOSTA BOURNE and MATTHEW JAMES, together with others, did knowingly and intentionally conspire to import a controlled substance into the United States from a place outside thereof, which offense involved five kilograms or more of a substance containing cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 952(a).

(Title 21, United States Code, Sections 963, 960(a)(1) and 960(b)(1)(B)(ii); Title 18, United States Code, Sections 3551 et seq.)

COUNT TWO
(Cocaine Importation)

2. On or about November 5, 2005, within the Eastern District of New York and elsewhere, the defendant VICTOR DACOSTA BOURNE, together with others, did knowingly and intentionally import a controlled substance into the United States from a place outside thereof, which offense involved five kilograms or more of a substance containing cocaine, a Schedule II controlled substance.

(Title 21, United States Code, Sections 952(a), 960(a)(1) and 960(b)(1)(B)(ii); Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT THREE
(Cocaine Importation)

3. On or about November 22, 2008, within the Eastern District of New York and elsewhere, the defendants VICTOR DACOSTA BOURNE and MATTHEW JAMES, together with others, did knowingly and intentionally import a controlled substance into the United States from a place outside thereof, which offense involved five kilograms or more of a substance containing cocaine, a Schedule II controlled substance.

(Title 21, United States Code, Sections 952(a), 960(a)(1) and 960(b)(1)(B)(ii); Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT FOUR
(Conspiracy to Distribute Cocaine)

4. On or about and between February 1, 2002 and February 28, 2009, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants VICTOR DACOSTA BOURNE and MATTHEW JAMES, together with others, did knowingly and intentionally conspire to distribute and possess with intent to distribute a controlled substance, which offense involved five kilograms or more of a substance containing cocaine, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

(Title 21, United States Code, Sections 846 and 841(b)(1)(A)(ii)(II); Title 18, United States Code, Sections 3551 et seq.)

COUNT FIVE
(Attempt to Distribute Cocaine)

5. On or about November 5, 2005, within the Eastern District of New York and elsewhere, the defendant VICTOR DACOSTA BOURNE, together with others, did knowingly and intentionally attempt to distribute and possess with intent to distribute a controlled substance, which offense involved five kilograms or

more of a substance containing cocaine, a Schedule II controlled substance.

(Title 21, United States Code, Sections 846 and 841(b)(1)(A)(ii)(II); Title 18, United States Code, Sections 2 and 3551 et seq.)

COUNT SIX
(Attempt to Distribute Cocaine)

6. On or about November 22, 2008, within the Eastern District of New York and elsewhere, the defendants VICTOR DACOSTA BOURNE and MATTHEW JAMES, together with others, did knowingly and intentionally attempt to distribute and possess with intent to distribute a controlled substance, which offense involved five kilograms or more of a substance containing cocaine, a Schedule II controlled substance.

(Title 21, United States Code, Sections 846 and 841(b)(1)(A)(ii)(II); Title 18, United States Code, Sections 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION AS TO COUNTS ONE THROUGH SIX
(Narcotics Violations)

7. The United States hereby gives notice to the defendants that, upon their conviction of any offense charged in Counts One through Six, the government will seek forfeiture in accordance with Title 21, United States Code, Section 853, which requires any person convicted of such offenses to forfeit any property constituting, or derived from, proceeds the defendants

obtained, directly or indirectly, as the result of such offenses and any property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of such offenses, including but not limited to, a sum of money equal to the gross proceeds from such offense.

8. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 21, United States Code, Section 853)

A TRUE BILL

FOREPERSON

BENTON J. CAMPBELL
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

BY:
ACTING UNITED STATES ATTORNEY
PURSUANT TO 28 C.F.R. 0.136

FORM DBD.34
JUN.85

No. _ _ _ _ _ _ _ _

UNITED STATES DISTRICT COURT

EASTERN District of NEW YORK

THE UNITED STATES OF AMERICA

vs.

VICTOR DACOSTA BOURNE and MATTHEW JAMES,

Defendants.

SUPERSEDING INDICTMENT

Cr. No. 08-CR-888(S-1)(NGG)
(T. 21, U.S.C., §§ 841(b)(1)(A)(ii)(II), 846, 853, 952(a), 960(a)(1), 960(b)(1)(B)(ii) and 963; T. 18, U.S.C., §§ 2 and 3551 *et seq.*)

A true bill. [signature]

Foreman

Filed in open court this ______________ day.

Of ____________ A.D. 19________

Clerk

Bail, $______________

TONI MELE, AUSA 718-254-6138